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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,490

04/15/2004

Bradley W. Johnson

51639-7011

8566

23117

7590

10/14/2008

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ARLINGTON, VA 22203

EXAMINER

HOEL, MATTHEW D

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

10/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,490

Applicant(s)

JOHNSON, BRADLEY W.

Examiner

Matthew D. Hoel

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/04/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40,42-47,49-59 and 82-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40,42-47,49-59 and 82-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

2. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

4. Determining the scope and contents of the prior art.
5. Ascertaining the differences between the prior art and the claims at issue.
6. Resolving the level of ordinary skill in the pertinent art.
7. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 40, 42, 43, 46, 48 to 51, 54 to 59, 82 to 84, and 87 to 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan et al., U.S. Patent No. 6,656,040 B1 in view of Astaneha, U.S. Patent No. 6,302,395 B1, and further in view of Ungaro, et al. (U.S. pre-grant publication 2003/0036426 A1, application 09/799,889).** Brosnan discloses a gaming comprising a one round of a first game of chance having a first game outcome. The first game of chance allows the player to place a first wager at a game player position and potentially entitling the player to a first prize if a winning outcome occurs (See Brosnan col. 4 lines 25-42; Fig. 4 & 7). The first

game of chance has a first game play area and includes a first wagering scheme, at least two individual card wagering positions and a first wager input (See Brosnan col. 4 lines 54-67). For example, the player may play two poker games in parallel and therefore there would be two individual card-wagering positions. A second game of chance has a second game play area and has a second game outcome. The second game of chance allows the player to place a wager and potentially entitling the player to a second prize if a winning outcome occurs. The second game of chance comprises, a second wagering scheme, a second game player area and a second wager input (See Brosnan col. 4 lines 25-67; Fig. 4; 7) [claims 40, 56]. The first game outcome and the second game outcome are independent (See Brosnan col. 3 lines 45-50) [claims 40, 52]. Brosnan teaches an area on the horizontal top surface of the playing table for playing cards (Figs. 1 & 3, 6:50-55), as presently claimed [Claims 40, 56, 82].

Regarding the new limitation of Claims 40, and 56 Brosnan ('040) teaches the first and second game outcomes not being combined to provide an outcome separate from the first and second game outcomes (Fig. 7; 15:29-16:13, esp. 15:50-65). The award of the first prize is independent of the second game outcome and the award of the second prize is independent of the first game outcome (See Brosnan col. 3 lines 45-50) [claim 42]. The player may wager on either or both of the first and second games of chance (See Brosnan col. 8 lines 22-39; Fig. 7) [claim 48]. The first and second games of chance are operatively coupled to each other (See Brosnan Figs. 1 & 4) [claim 49]. The second game can have more than two outcomes (See Brosnan col. 3 lines 65-67; col. 4 lines 1-4) [claim 54]. For example in poker, one could have a pair, or a flush, etc. The

second game can also be keno (See Brosnan col. 4 lines 1-4) [claim 55]. The first game play area is a card wagering layout area where at least one card is dealt to the player (See Brosnan col. 3 lines 65-67; Fig. 4) [claim 57]. For example, poker can be played. The player is allowed to place a wager on the second game of chance regardless of whether the player placed a wager on the first game of chance (See Brosnan col. 4 lines 25-67; Fig. 7). The player is allowed to place a wager on a first game of chance having a first chance outcome by allowing the player to place a wager on a discrete card game layout the wagering scheme may be poker (See Brosnan Fig. 4). The player is allowed to place a wager on a first wagering scheme and the step of allowing the player to place a wager on a second game of chance having a second game of chance outcome comprises allowing the player to place a wager on a second wagering scheme. The second wagering scheme being distinct from the first wagering scheme (See Brosnan col. 4 lines 25-67; col. 8 lines 22-39; Fig. 7). Regarding the new limitation of wagering on either or both the second games of chance, Brosnan ('040) allows wagers to be made independently on first, second, and third games of chance. The abstract of '040 and Fig. 7 disclose three independent games, the outcomes of which are determined independently of each other as the player wagers on each game separately (15:28-16:12, esp. 15:50-53 determining outcomes independently). The outcomes of the first game and the second game are thus independent of each other as claimed [claims 40, 56, 82].

9. Brosnan lacks in disclosing a table, a live dealer position and the game of roulette. Astaneha teaches of a combination, dice, card and roulette gambling game.

Players play parts of either two or all three games on the same gaming table. The table has a live dealer position and first card wagering positions for the first game of chance at the table. The games are conducted by a live dealer (See Astaneha col. 4 lines 31-48; col. 6 lines 50-67; col. 7 lines 1-2; Fig. 3) [claims 40, 50, 51, 56, 61]. At least one card is dealt to the player (See Astaneha col. 6 lines 50-53) [claim 62]. Astaneha teaches wagering card positions and the second game play area (roulette wheel, roulette being the second game) being mounted on a table (Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to play the games of Brosnan at a gaming table simultaneously with a live dealer running the games. It has been well known throughout the art that casino games may be played at gaming tables with dealers. Astaneha clearly shows that more than one type of game can be played at a gaming table at one time. Therefore, by playing the plurality of games of Brosnan at a gaming a table simultaneously, players are not bored after a short time and therefore they will not retire from the game, as quickly which is desirable to the casino. Players also enjoy the personal contact with a live dealer versus an electronic machine. Furthermore, by playing multiple games at the same time, the amount of money a casino receives in wagers increases, make the combination of games playable together more profitable for the casino. Astaneha further discloses that a second game play area is a roulette betting area that is located between the dealer position and the card wagering position (See Astaneha Fig. 1) [claims 43, 58]. The roulette wheel is mounted adjacent to the roulette betting area (See Astaneha Fig. 1; col. 6 lines 22-26) [claim 59]. The second game is roulette in which the dealer rotates

the wheel (See Astaneha col. 6 lines 22-26) [claim 46]. The player may wager on the second game of chance by allowing the player to place a wager on a discrete wheel game-betting layout (See Astaneha col. 6 lines 22-26) [claim 68]. The roulette wheel is spun and stopped (See Astaneha col. 6 lines 22-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have one of the secondary games of Brosnan be roulette. Roulette is a popular casino game that many players enjoy. Consequently, by including roulette as the secondary game, many more people would desire to play the game. It is further obvious to use a video display to display the roulette wheel, just as it is well known throughout the art to convert electronic games to table games it is just as obvious to convert table games to electronic games. Therefore, it is obvious to use an electronic video display for the wheel as one would in Brosnan. Some players enjoy the electronic displays while others enjoy actual wheels; therefore, by using both, one can appeal to both types of individuals. Concerning the limitation of Claim 40 and 56 of a game having a game display located adjacent to the dealer position, the game display being adapted to display the second game outcome, and a controller being in communication with the game display, the controller being adapted to control the game display—the combination of Brosnan and Astaneha would inherently have this as discussed in the response to the applicant's arguments. Astaneha in Col. 4, Lines 38 to 41 discloses "...a rotatable wheel to be rotated by a dealer and positioned adjacent the dice table, the rotatable wheel having a plurality of segmented areas with different numbers thereon..." (Fig. 1). This rotatable wheel is in a position adjacent to the dealer's position

as the roulette wheel is spun by the dealer. In the video game format resulting from the 103 combination with Brosnan, there would be display controlled by a controller that is adjacent to a dealer position, as the dealer position and the roulette reel would both be shown on adjacent displays or shown adjacent to each other on the same display. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied this vertically disposed game display of '326 to the combination of '040 and '395. Regarding a live dealer position such as that taught in '395 (Fig. 1, 4:38-39, 6:22-25, live dealer 6:50-55), one of ordinary skill in the art at the time of invention would have thus known how to implement a horizontal-table game with electronic displays at the dealer and player stations. Such electronic player and dealer stations could be implemented with the CRTs, monitors, or touchscreens specified by '040 in 5: 5:43-52 by one of ordinary skill in the art. '040 (Brosnan) does teach live play (4:11-24; Fig. 8, 16:13-17:18, generally; 18:10-18, specifically, bonus game for one player on the common display triggering a bonus game for all of the players). '040 (Brosnan) would not teach away from or be rendered inoperable for its intended purpose by using its horizontal-table video displays in conjunction with the player and dealer stations of '395 (Astaneha). One of ordinary skill in the art at the time of invention would have known how to implement a horizontal-table game with electronic displays at the dealer and player stations. Such electronic player and dealer stations could be implemented with the CRTs, monitors, or touchscreens specified by '040 in 5: 5:43-52 by one of ordinary skill in the art [claims 40, 56, 82, and 88 to 90]. '040 (Brosnan) does teach live play (4:11-24; Fig. 8, 16:13-17:18, generally; 18:10-18,

specifically, bonus game for one player on the common display triggering a bonus game for all of the players).

10. Ungaro, however, discloses a vertically disposed game display connected to the top surface (54, Figs. 1 & 10; Fig. 3, 30) [claims 40, 56, 82]. This vertical display is an outcome display in that the amount of the jackpot won is an outcome or result of the game, "outcome" not being limited to a combination of indicia as the applicant appears to intend (jackpot \$460, pro-aggressive jackpot \$15,763,55). The vertically disposed display makes no difference in the play of the game or its outcome, and is merely physical structure that does not directly relate to how the games of Astaneha ('395) or Ungaro ('326) are actually played. For one, the vertically disposed display would have had the advantage and effect of making the game outcomes more visible to the players and spectators of the game. It would also have the advantage of providing the roulette game in a format familiar to players of roulette. Also, these types of vertical displays were widely known to be applied to roulette games at the time the invention was made, so one of ordinary skill in the art would have been motivated to apply such a display to a roulette game. '326 discloses a control on the horizontal surface for playing the second game of chance displayed on the vertically mounted display (player control panel 64, Figs. 1 & 13; support found on Page 8 and Figs. 1 to 4 of provisional application 60/196,113 filed on 4-11-2000) [claim 83]. The display device of '326 for playing the second game of chance (roulette) is mounted to the table by a pole connected to one end of the table (Fig. 1, 54; Fig. 3, 30) [claim 84]. '040 discloses the keno games being on vertical displays (Para. 17, Figs. 1 & 4) [claim 87].

11. **Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan et al., in view of Astaneha and Ungaro, in further view of Huard et al., U.S. Patent No. 5,743,800.** The combination of Brosnan, Astaneha, and Ungaro lack in specifically disclosing that the first game is blackjack. Huard teaches of a first game of blackjack that has an auxiliary game. The first wagering scheme is a blackjack-betting layout (See Huard et al. col. 2 lines 50-55; col. 5 lines 1-33) [claim 45]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have blackjack be the first game of chance. Blackjack is a very popular casino game and would entice numerous players to play the game as well as the secondary game.

12. **Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan et al., in view of Astaneha and Ungaro, in further view of Adams, U.S. Patent No. 5,911,418.** The combination of Brosnan, Astaneha, and Ungaro lack in disclosing requiring a player to wager on both the first and second games of chance. Adams teaches of a card game with a second game of chance. In order to play the second game of chance, i.e. spin the wheel, the player must have wagered on both the first game and second game (See Adams col. 2 lines 51-67) [claims 47]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to require a player to bet on both games of chance. By requiring a player to bet on both games of chance, the casino makes more money since more bets are being placed. Therefore, it is profitable to have players bet on multiple games.

13. **Claims 44, 52 to 53, 85, and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan et al., in view of Astaneha and Ungaro, in further view**

of Pohanka, U.S. Patent Des. 273,310. The combination of Brosnan, Astaneha, and Ungaro lack in disclosing a wheel rotating about a horizontal axis or that the roulette betting area comprises a video display. Pohanka teaches of an electronic roulette game housing in which the rotatable wheel is mounted to the machine such that it may rotate about a horizontal axis and the roulette betting area comprises a video display (See Pohanka Fig. 1) [claims 44, 52, 53, 85, 86]. Pohanka also teaches a roulette or rotatable wheel located above a video screen on a video gaming device. The combination of Brosnan, Astaneha, Ungaro, and Pohanka would thus have a roulette or rotatable wheel located above the roulette betting area, table, and first and second game play areas. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the wheel in Astaneha rotate about a horizontal axis. By rotating the wheel about a horizontal axis, the wheel would be clearly visible to more players since they would not have to gather around the wheel to see the outcome. Therefore, more people would be able to see the outcome of the game. It is also obvious to use a video display for the roulette betting area. By using a video display, bets can be processed electronically so that the dealer can concentrate on other functions of the game instead of the betting and it can be assured that the bets are accurately recorded.

Response to Arguments

14. Applicant's arguments filed 09-04-2008 have been fully considered but they are not persuasive. The examiner's previous remarks are incorporated by reference. The examiner points the applicant to 17:28-31 of '040 (Brosnan, et al.): "For example, the

display screen may be provided on a table top gaming machine where the display screen is viewed through a horizontal glass bezel." This is also described in '040 6:20-25). '395 (Astaneha) is a table having a horizontal top surface (Fig. 1). This aspect of '040 is important as it shows how '040 can be modified to implement a more modern gaming table such as that specified in '395. The vertical upright table of '040 is only the main embodiment described for exemplary purposes and is not limiting. '395 has plural betting areas on the table for games of dice, roulette, and cards (Figs. 3-5, plural wagering areas, 4:31-48). While the wagering options of '395 are interrelated (6:56-63, 8:7-9, 8:57-58, 9:3-4, 9:20-23), '395 does not specifically criticize independent wagers. '395 only criticized roulette bets by themselves (1:43-52, 2:2:42-54). The disclosure of '395 does not criticize or teach away from independent bets per se as there is no criticism, discrediting, or otherwise discouraging (in re Fulton, MPEP 2123 (II)). In any event, '395 was a secondary reference, '040 (Brosnan) was the base reference used in the rejection of the independent claims. The abstract of '040 and Fig. 7 disclose three independent games, the outcomes of which are determined independently of each other as the player wagers on each game separately (15:28-16:12, esp. 15:50-53 determining outcomes independently). The outcomes of the first game and the second game are thus independent of each other as claimed. Applying the horizontal video displays of '040, 17:28-30, to the table of '395 is simply an automation of previously known manually played table games, as the play of the games is otherwise the same (automating a manual activity, in re Venner, MPEP 2144.04 (III)). '040 teaches different games appearing to interact (Abst., 8:58-67), which is analogous to the wagers of the

combinations of games outlined in '395 (6:56-63, 8:7-9, 8:57-58, 9:3-4, 9:20-23). '040 in Figs. 6A-B and 14:52-15:8 describes a bonus game which is a different type and requires its own wager. The player is playing a pachinko game for example, and when a ball enters cup 610 there is a bonus condition that launches the bonus slot game. The player makes a wager on the bonus slot game, whose outcomes is independent of the main pachinko game. The result of the base pachinko game and the bonus slot game is thus a combination of the results of two different types of games, each game requiring a wager. The results of the parallel games of '395 are similarly independent. In the dice-card combination of '395, the result of rolling the two dice 28 and 30 is independent of the result of turning over the card 50 (8:8-16). In the card-roulette combination of '395, the result of spinning the roulette wheel 16 is independent of turning over the card 50 (8:57-62). In the dice-roulette-card combination of '395, the results of spinning the wheel 16, rolling the dice 28 and 30, and turning over the card 50 are all independent. While these games are not exactly the same as the pachinko-slot combination of '040 mentioned above, their modes of play are very similar in result as the combined result is the combination of two independent results. The pachinko-slot combination of '040 requires a single wager in that a portion of the pachinko winnings are bet on the bonus slot game (15:3-5), whereas in the dice-card-roulette combinations of '395, the player is betting on the overall result ('395, 8:10-15, 8:60-62, 9:6-12). While '040 is primarily specified for independent wagers on separate games, it allows for combination wagers on combinations of separate types of games with independent results in a manner analogous to '395. '040 is intended to be used with pachinko, keno,

card, and slot games (Fig. 4, 11:42-49). The examiner believes that one of ordinary skill in the art at the time of invention would have been able to modify the horizontal-table gaming embodiment of '040 to play visual embodiments of the dice, roulette, and card games of '395. The pachinko game of '040 is analogous to the roulette game of '395 in that the ball follows a series of trajectories based on how it bounces (9:48-10:19), so the same or similar software routines could be used to implement a horizontal-table version of the roulette game. Contrary to the applicant's assertions, '040 (Brosnan) would not teach away from or be rendered inoperable for its intended purpose by using its horizontal-table video displays in conjunction with the player and dealer stations of '395 (Astaneha). Greenwood (U.S. patent 4,813,675 A, 1989) shows video player and dealer stations on a horizontal-top playing surface (Abst.; Fig. 1, 16A-C; Fig. 4; 24, Fig. 6; 2:13-22; dealer game mode, 2:23-32). Tarantino (U.S. patent 5,669,817 A, 1997) shows the same thing (Abst.; 12, 14a-i, Fig. 1, 2:55-63; 20, 14a-i, Fig. 4, 3: 53-63; Fig. 3, 3:23-44). One of ordinary skill in the art at the time of invention would have thus known how to implement a horizontal-table game with electronic displays at the dealer and player stations. Such electronic player and dealer stations could be implemented with the CRTs, monitors, or touchscreens specified by '040 in 5: 5:43-52 by one of ordinary skill in the art. '040 (Brosnan) does teach live play (4:11-24; Fig. 8, 16:13-17:18, generally; 18:10-18, specifically, bonus game for one player on the common display triggering a bonus game for all of the players). The examiner respectfully disagrees with the applicant as to the claims' condition for allowance.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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